

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #4	CCRB Case #: 201710602	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 12/18/2017 12:23 AM	Location of Incident: 78th Precinct stationhouse	Precinct: 78	18 Mo. SOL 6/18/2019	EO SOL 6/18/2019	
Date/Time CV Reported Tue, 12/19/2017 3:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/27/2017 11:02 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Giuseppe Oliveri	28888	939146	062 PCT
2. POM Enrique Rodriguez	21304	907171	062 PCT
3. POM Michael Alvarez	14824	944321	062 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Benjamin Gelber	02507	945754	062 PCT
2. POM Shunyin Chan	28278	945579	062 PCT
3. SGT Renee Vidiksis	03516	949769	078 PCT
4. POM Michael Oleary	09997	949415	HWY 02

Officer(s)	Allegation	Investigator Recommendation
A.POM Giuseppe Oliveri	Force: Inside of the 78 Precinct stationhouse, Police Officer Giuseppe Oliveri used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On December 19, 2017, § 87(2)(b) filed this complaint with IAB by phone. It was received at the CCRB on December 27, 2017.

On December 18, 2017, at approximately 12:48 a.m., an officer, identified by the investigation as PO Giuseppe Oliveri of the 62 Precinct, pushed § 87(2)(b) into the front desk at the 78 Precinct stationhouse (**Allegations A: Abuse of Authority**, § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) was arrested for § 87(2)(b) (BR 01).

There was no video of this incident (BR 21).

Allegation (A) Abuse of Authority: Inside of the 78 Precinct stationhouse, Police Officer Giuseppe Oliveri used physical force against § 87(2)(b)

§ 87(2)(g)

It is undisputed that § 87(2)(b) was arrested for § 87(2)(b) and that officers transported him to the 78 Precinct stationhouse for processing. The circumstances surrounding what occurred at the 78 Precinct stationhouse are in dispute.

On December 18, 2017, at approximately 12:50 a.m. § 87(2)(b) (BR 02) arrived at the 78 Precinct stationhouse with PO Oliveri and his partner, PO Rodriguez. PO Oliveri, who was holding § 87(2)(b)'s left arm to guide him, led § 87(2)(b) to the front desk. PO Rodriguez entered with them, but was not making physical contact with § 87(2)(b). When they got to the front desk, PO Oliveri had one hand on the middle of § 87(2)(b)'s back and one hand on § 87(2)(b)'s upper left arm. § 87(2)(b) may have made a move to lift up his pants, but he was not sure of this. Without any other movements, or other possible provocations that § 87(2)(b) could tell, PO Oliveri pushed § 87(2)(b) forward into the front desk, such that § 87(2)(b)'s chest made contact with the edge of the desk. § 87(2)(b) turned slightly, and PO Oliveri pushed him forward again. This resulted in a bruise to the right side of § 87(2)(b)'s ribs. § 87(2)(b) later said he could not be sure if he was pushed once or twice, as it happened very quickly.)

PO Oliveri then grabbed § 87(2)(b)'s hands, which were still rear handcuffed, and pulled them upwards, causing § 87(2)(b) to lean forward. This resulted in pain in § 87(2)(b)'s wrists and shoulders. PO Rodriguez was standing next to § 87(2)(b) and Sgt. Rene Vidiksis of the 78 Precinct was sitting at the front desk.

After standing at the desk for approximately five to 10 minutes, PO Oliveri led § 87(2)(b) to a room for IDTU testing. § 87(2)(b) was released later from Brooklyn Central Booking.

§ 87(2)(b) did not try to get medical attention while in police custody. After his release, on either December 18, 2017, or December 19, 2017, § 87(2)(b) went to § 87(2)(b) in regards to the bruise on his chest and pain in his wrists and shoulders. § 87(2)(b) refused to sign HIPAA forms, and the CCRB was therefore unable to obtain a copy of his medical records.

PO Oliveri (BR 06) and PO Rodriguez led § 87(2)(b) to the front desk at the 78 Precinct stationhouse where Sgt. Vidiksis was sitting. PO Oliveri and PO Rodriguez lodged their guns behind the front desk for safety purposes, and then PO Oliveri patted § 87(2)(b) down. Sgt. Vidiksis entered his information into the Command Log (BR 08). PO Oliveri and PO Rodriguez led § 87(2)(b) to the holding cells and then completed their paperwork. PO Oliveri, PO Rodriguez, and two highway officers then brought § 87(2)(b) into the IDTU room for testing.

Once the testing was completed, PO Oliveri and PO Rodriguez returned with § 87(2)(b) to the front desk, where Sgt. Vidiksis was still sitting. PO Rodriguez stood approximately six to 12 inches behind § 87(2)(b) who was standing directly in front of the desk. PO Oliveri walked to the left of PO Rodriguez and § 87(2)(b) and then behind the desk so that he could retrieve his and PO Rodriguez's firearms. As PO Oliveri was moving, § 87(2)(b) stared at him and did not move his eyes from PO Oliveri's person. PO Oliveri holstered his firearm and held PO Rodriguez's firearm in his left hand pointed straight down to the ground.

As PO Oliveri walked out from behind the desk to where PO Rodriguez was standing behind § 87(2)(b) turned his head to the left so that he could continue staring at PO Oliveri. When PO Oliveri was approximately one to two inches away from § 87(2)(b) he could feel § 87(2)(b) breathing on him as he continued to stare at him. PO Oliveri did not feel comfortable handing PO Rodriguez his firearm while § 87(2)(b) was staring at him, and feared for his and PO Rodriguez's safety because he thought that § 87(2)(b) could have made a move towards the firearm, head-butted PO Oliveri, or spat on PO Oliveri.

PO Oliveri asked § 87(2)(b) three times to turn his head forward. § 87(2)(b) did not reply and did not turn his head. Without issuing any further commands, PO Oliveri placed his right hand on § 87(2)(b)'s lower cheek and jaw area and, with minimal pressure, guided § 87(2)(b)'s face slowly to the right, so that his head was facing forward. § 87(2)(b) did not say or do anything as this was happening and, when PO Oliveri removed his hand from his face, kept his head facing forward. PO Oliveri then handed PO Rodriguez his firearm, which he immediately holstered. PO Oliveri denied pushing § 87(2)(b) into the front desk, pulling his arms upwards, or using any other force against § 87(2)(b) while at the 78 Precinct stationhouse. PO Oliveri did not see § 87(2)(b) come into physical contact with the front desk in any way.

PO Rodriguez's (BR 07) statement was generally consistent with that of PO Oliveri with the following exceptions noted. After the testing, PO Rodriguez stood at the front desk to the right of § 87(2)(b) and was holding onto § 87(2)(b)'s arm while PO Oliveri went to retrieve

their firearms. When PO Rodriguez saw § 87(2)(b) staring at PO Oliveri, PO Rodriguez told § 87(2)(b) to look forward, but § 87(2)(b) did not do so. PO Oliveri also told § 87(2)(b) to look forward three times before he put his right hand on § 87(2)(b)'s lower jaw and cheek area and guided § 87(2)(b)'s head to a forward facing position. Aside from moving § 87(2)(b)'s head forward, PO Rodriguez did not see PO Oliveri push § 87(2)(b) lift up § 87(2)(b)'s arms, or use any other physical force against § 87(2)(b).

Sgt. Vidiksis (BR 09) had no independent recollection of the incident. She confirmed her handwriting in the command log (BR 08), but could not recall ever seeing § 87(2)(b) at the 78 Precinct stationhouse. She denied seeing any officers pushing any prisoners into the desk area or lifting a prisoner's arms by the handcuffs. She also did not recall seeing any prisoner stare at an officer while retrieving a firearm, or any officers move a prisoner's head into a front-facing position.

According to the Command Log from the 78 Precinct stationhouse (BR 08), § 87(2)(b) was registered at 12:50 a.m. His physical condition is noted as incoherent/intoxicated. According to the Command Log at the 62 Precinct stationhouse (BR10), § 87(2)(b) was registered at 3:30 a.m., and his physical condition is noted at normal. § 87(2)(b) was arrested for § 87(2)(b). His arrest report states that no force was used during the arrest (BR 01). No MTPR or TRI reports were found for § 87(2)(b) (BR 11 and BR 12).

Patrol Guide procedure 221-01 (BR 17) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 18).
- PO Oliveri has been a member of service for 12 years and has been a subject in three CCRB complaints and six allegations, none of which was substantiated. § 87(2)(g)
- PO Alvarez has been a member of service for 10 years and this is the first CCRB complaint to which he has been a subject.
- PO Rodriguez has been a member of service for 24 years and has been a subject in two CCRB complaints and four allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, false imprisonment, negligent training, supervision, hiring, and retention, unlawful search, seizure, and entry, loss of liberty, loss of civil right and constitutional right, intentional infliction of emotional distress, negligent infliction of emotional distress, negligence, assault, battery, and seeking \$1,000,000 as redress (BR 19). There is no 50H hearing scheduled.
- § 87(2)(b) § 87(2)(c)

Squad No.: 4

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date